

**REMARKS/ARGUMENTS**

In this Amendment Under 37 C.F.R. § 1.111 (“Amendment”), Applicants amend paragraphs [0001], [0003], [0029], [0030], [0033], [0036], [0039], [0040], [0042], [0044], and [0045] in order to improve clarity. Applicants also amend claim 22 to make it depend directly from claim 14. Additionally, Applicants make other amendments to claims 1, 6, and 8-22 in order to improve clarity. No new matter is introduced.

No amendments are made in response to the Examiner’s rejection.

Prior to entry of the Amendment, claims 1-22 were pending in the application. After entry of the Amendment, claims 1-22 remain pending in the application.

In the Office Action, the Examiner rejected claims 14-16 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,742,347 to Kandlur et al. (“Kandlur”). Applicants respectfully traverse the Examiner’s rejection.

The Examiner also allowed claims 1-13 and 17-22. Applicants gratefully acknowledge the Examiner’s allowance of claims 1-13 and 17-22.

**Allowed Claims**

In allowing claims 1-13 and 17-22, the Examiner provided a “statement of reasons for the indication of allowable subject matter”, indicating that the “independent claims identify [a] uniquely distinct feature ‘ . . . determining unit for determining a bit rate using size information from an intra-coded picture of a first subgroup of pictures in the group of pictures received from the sorting unit, and setting bit rates of next subgroups of pictures using the determined bit rate’”. Office Action, p. 3 (emphasis omitted).

Applicants understand the Examiner’s statement of reasons for the indication of allowable subject matter to mean that the independent claims are allowed at least because the

cited art fails to anticipate or render obvious the following recitations: “determining a bit rate using size information from an intra-coded picture of a first subgroup of pictures in the group of pictures received from the sorting unit, and setting bit rates of next subgroups of pictures using the determined bit rate” (claim 1); “determining size information from the intra-coded picture of a first subgroup of pictures in the group of pictures” and “determining a bit rate from the size information, and setting bit rates required for encoding the predictive-coded pictures of next subgroups of pictures contained in the group of pictures into intra-coded pictures, using the determined bit rate” (claim 8); “determining at least one bit rate using size information from a picture of a first type contained in a first subgroup within the at least one group of pictures received and setting the at least one bit rate for next subgroups of pictures” (claim 12); “determining at least one bit rate using size information from a picture of a first type contained in a first subgroup within the at least one group of pictures received and setting the at least one bit rate for next subgroups of pictures” (claim 13); “determines at least one bit rate using size information from a picture of a first type contained in a first subgroup within the at least one group of pictures received, sets the at least one bit rate for next subgroups of pictures” (claim 17); and “determining at least one bit rate using size information from a picture of a first type contained in a first subgroup within the at least one group of pictures received” and “setting the at least one bit rate for next subgroups of pictures” (claim 18).

Similarly, Applicants understand the Examiner’s statement of reasons for the indication of allowable subject matter also to mean that dependent claims 21 and 22 are allowed at least because the cited art fails to anticipate or render obvious the following recitations: “determines the bit rate using the size information from the picture of the first type contained in a first subgroup within the at least one group of pictures received and setting the bit rate for next

subgroups of pictures” (claim 21); and “determines the bit rate using the size information from the picture of the first type contained in the first subgroup within the at least one group of pictures received” and “sets the bit rate for the next subgroups of pictures” (claim 22).

#### Drawings

Applicants note that the Form PTOL-326 in the Office Action does not indicate the status of the drawings filed on April 23, 2004.

Applicants request that the Examiner indicate the status of the drawings in the next paper mailed by the U.S. Patent and Trademark Office (“USPTO”).

#### Claim Rejection Under 35 U.S.C. § 102(b)

Applicants submit that the Examiner has failed to establish a proper prima facie case of anticipation at least because Kandlur does not appear to disclose, either expressly or inherently, every element of claim 14, 15, or 16, as required by MPEP 2131.

For example, contrary to the general allegations of the Office Action, video player 102 of Kandlur does not appear to use a first picture type to set a bit rate corresponding to size information of the first picture type, as recited in claims 14 and 15. Nor does encoder 508 of Kandlur appear to convert a second picture type into the first picture type using the set bit rate, as also recited in claims 14 and 15.

For at least these reasons, Applicants submit that independent claims 14 and 15 are patentable under 35 U.S.C. § 102(b) over Kandlur. Applicants further submit that dependent claim 16 is patentable under 35 U.S.C. § 102(b) over Kandlur, at least for the same reasons that claim 15 is patentable, from which claim 16 directly depends.

#### Request for Reconsideration and Allowance

Accordingly, in view of the above amendments and remarks, reconsideration of the

rejections and allowance of each of claims 1-22 in connection with the present application is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

If necessary, the Director of the USPTO is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; in particular, extension of time fees.

Respectfully submitted,

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By

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